



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Interagency Labor Committee for Monitoring and Enforcement Final

Procedural Guidelines for Petitions Pursuant to the USMCA

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: The Interagency Labor Committee for Monitoring and Enforcement (Committee) publishes in the Annex to this notice the final revised procedural guidelines for submissions by the public of information with respect to potential failures of Canada or Mexico to implement their labor obligations under the United States-Mexico-Canada Agreement (USMCA or Agreement). These procedural guidelines include revisions that respond to comments received and minor technical clarifications.

FOR FURTHER INFORMATION CONTACT: Deborah Birnbaum, Office of the General Counsel, at Deborah.e.Birnbaum@ustr.eop.gov or (202) 395-9622.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2006, the U.S. Department of Labor published a final notice of procedural guidelines for the receipt and review of public submissions on matters related to free trade agreement labor chapters and the North American Agreement on Labor Cooperation (NAALC). Those guidelines continue to apply to public submissions on matters related to free trade agreement labor chapters other than the USMCA.

The Protocol of Amendment for the USMCA terminated the NAALC upon the protocol's entry into force on July 1, 2020. Pursuant to section 711 of the USMCA Implementation Act (Implementation Act), the President established the Committee through Executive Order 13918 of April 28, 2020. section 716(a) of the Implementation Act and Article 23.11 of the USMCA require the Committee to establish procedures for

submissions by the public of information with respect to potential failures to implement the labor obligations of a USMCA country.

II. The Committee's Response to Significant Comments¹

A. Amendments Made to Interim Procedural Guidelines

On June 30, 2020, the Committee published interim procedural guidelines and invited comments from the public. *See* 85 FR 39257. The Committee received and carefully reviewed the comments on the interim procedural guidelines. Based on that review, the Committee adopted final procedural guidelines that reflect the following adjustments from the interim procedural guidelines:

- Amended the procedures described in Sections C.5.c and C.7.c² to allow petitions to be filed anonymously.
- Amended Sections C.6 and C.8 to remove the recommendation to petitioners to provide information regarding:
 - whether relief has been sought under domestic laws or procedures; and
 - whether any matter referenced in the petition has been addressed by, or is pending before, any international body.
- Deleted the section that was Section D.7 in the interim procedural guidelines, which concerned Committee considerations in making a determination.
- Amended the list of entities and individuals with whom the Committee may consult, or whose views it may consider, in Section D.7 to add:
 - “employer organizations,” and
 - “the employer, or the owner or operator of a facility”.

¹ The rulemaking procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply to these final procedural guidelines, which are promulgated pursuant to section 716(a) of the Implementation Act and Article 23.11 of the USMCA, and are within the foreign affairs function of the United States and the foreign affairs exemption of 5 U.S.C. 553(a)(1).

² Unless otherwise noted, this notice refers to sections using the numbering in the final procedural guidelines. The numbering of some sections changed from the interim to the final procedural guidelines.

- Amended Section D.8 to clarify when the Committee will provide notice and response to a petitioner, and to make such response mandatory by changing “may” to “will”.

The final revised procedural guidelines also include other minor clarifications and technical adjustments, including:

- Regarding how petitioners should send petitions and accompanying information to the Committee, the acceptable languages for petitions, forms of acceptable contact information, and when the USMCA entered into force.
- Clarifying the definition of “labor organization,” and that the definition of “Denial of Rights” matches that used in the USMCA text.
- Clarifying the preambles of Sections C.6 and C.8, such that the Committee recommends, but does not require, that the referenced subjects be addressed in a petition.
- In Section E on Confidentiality, noting that information submitted, particularly identity information, will be treated as exempt from public inspection.

B. Response to Significant Comments Not Accepted by the Committee

The Committee carefully considered other adjustments to the procedural guidelines that were suggested by commenters. However, the Committee did not deem that any adjustments, other than those listed above, were warranted. To the extent comments were not accepted, the Committee determined that the proposed adjustment did not further the goals of the procedural guidelines to provide public petitioners with clear, streamlined procedures for submitting petitions that would not raise unnecessary barriers to submission or discourage participation. In addition, the Committee received a number of comments that were outside the scope of its June 30, 2020, request for comments on the interim procedural guidelines as they did not deal specifically with the proposed guidelines for submissions by the public of information with respect to potential

failures of Canada or Mexico to implement their labor obligations under the USMCA. These comments were thus rejected. More detailed responses to various categories of comments follow below.

III. Summary of Comments

To provide further information to the public, the Committee here summarizes, and provides responses to, the comments it received on the interim procedures.

(a) Definitions.

Comment: One commenter sought to change the definition of “Covered Facility” under USMCA Annex 31-A to limit remedies to the specific facility involved in a denial of rights and not to other facilities that the person or entity may own or control.

Response: Article 31-A.15 of the USMCA defines “Covered facility” for purposes of Annex 31.A. Moreover, Article 31-A.10 of the USMCA provides for the remedies a Party may impose to remedy a denial of rights. Therefore, the Committee retained the definition of “Covered facility” in Section A consistent with the USMCA’s definition.

Comment: Several commenters sought to have the Guidelines define the term “sufficient, credible evidence.”

Response: What constitutes “sufficient, credible evidence” is a fact- and context-specific determination. Accordingly, further definition in the Guidelines would not be appropriate.

(b) Petitions and Accompanying Information.

Comment: Commenters sought to effectuate a substantive “standing” limitation on who can file a petition. Certain comments also sought to require a statement under penalty of perjury that the petition is true and correct. One commenter sought to effectuate these changes by building a penalty-of-perjury requirement and a standing requirement into the definitions of “petition” and “petitioner,” respectively.

Response: The proposed limitation and requirement would be inconsistent with the Implementation Act and could deter individuals from making the Committee aware of matters of interest to the Committee. Consequently, the Committee did not incorporate this change into the Guidelines.

Comment: Commenters sought a requirement that petitions alleging a denial of rights under Annex 31-A be production and representation area specific, and that petitioners identify the affected production or representation area.

Response: The Facility-Specific Rapid Response Labor Mechanism (RRM) applies with respect to a denial of rights to “workers at a Covered Facility.” *See* USMCA Article 31-A.2. Nothing in the USMCA or the Implementation Act would suggest a basis for requiring the identification of a particular production or representation area in a petition, or for requiring that allegations in a petition be limited to workers in one or more specific production or representation areas. By contrast, the proposed requirements could deter some petitioners from making the Committee aware of denials of rights.

Comment: Several commenters sought a requirement that the owner of a facility at issue in an RRM petition be notified soon after the filing of the petition, asserting that a failure to notify the facility would raise procedural due process concerns. Some commenters also sought to have the Committee establish procedures by which owners of facilities at issue in RRM petitions could respond to the petitions or appeal from a determination by the Committee to refer the matter for enforcement action.

Response: The Committee will make every effort to consult with the employer’s representatives in appropriate circumstances. In practice, the Committee consults with the owners of a facility or an employer that is the subject of an RRM petition whenever practicable regarding the issues raised in the petition. However, the Implementation Act does not impose a requirement on the Committee in this respect. Additionally, in some circumstances, informing the owner could lead to the destruction of evidence or witness

intimidation. However, “the employer, or the owner or operator of a facility” and “employer organizations” have been added to the indicative list of entities that the Committee may choose to consult with when making its determination. This change clarifies that the Committee may, among other things, consult with, and consider views expressed by, affected covered facility owners as part of the determination process.

Comment: Commenters requested that the procedures include a requirement that a petitioner identify the legal or economic interest that drives the petition.

Response: The Implementation Act imposes no requirement that a petitioner have a legal or economic interest in the subject of the petition in order to submit a petition. Further, the legal or economic interest, if any, of the petitioner is not relevant to the existence of a denial of rights or of any other failure to comply with the obligations of another Party under the Labor Chapter of the USMCA. Requiring the identification of a legal or economic interest, if any, also could defeat the ability of a petitioner to maintain anonymity. The Committee, therefore, declines to make the requested change.

Comment: Some commenters sought to include in the Guidelines a requirement that petitioners exhaust other remedies, including domestic remedies, before filing a petition. Certain commenters also sought to include a requirement that, if a petitioner seeks relief from an international organization prior to filing a petition, the petitioner complete the alternate process before filing the petition. By contrast, another comment sought language clarifying that the RRM can be used regardless of whether domestic remedies have been sought or exhausted.

Response: The Committee has amended Sections C.6 and C.8 in a manner that clarifies that there is no requirement to pursue or exhaust domestic remedies or the procedures of any international organization prior to filing an RRM or Labor Chapter petition with the Committee. While information about use of domestic remedies and processes of international organizations may be of utility to the Committee, a petitioner

need not provide this information in order to file a petition. There is no basis in the USMCA or the Implementation Act for requiring the exhaustion of domestic remedies or procedures of international organizations prior to the filing of a petition with the Committee.

Comment: One commenter expressed that the procedures should not request information from Labor Chapter petitioners about whether the matter referenced in the petition occurred in a manner affecting trade or investment because the USMCA creates a rebuttable presumption that violations occur in a manner affecting trade or investment.

Response: As the commenter correctly pointed out, USMCA Article 23.3, fn. 5, states that “[f]or purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.” However, establishing that an alleged violation of a Party’s labor obligations occurred in a manner affecting trade or investment is an element of the obligation under USMCA Article 23.3, *see* fn. 4. Therefore, it is an element that the Committee may consider when taking action on a Petition. However, because such information can be of utility to the Committee, the Committee continues to recommend that a petitioner provide this information to the extent possible.

Comment: Several commenters sought a requirement that, where a petitioner claims both non-compliance by Mexico with obligations under the Labor Chapter and a denial of rights under Annex 31-A, the petitioner be required to file separate petitions even if the claims are based on the same set of underlying facts.

Response: Nothing in the Implementation Act would support such a requirement and the Committee finds it would not be appropriate to make such a change. The separation of claims into separate petitions could prove difficult for some petitioners. A requirement to do so therefore could deter potential petitioners.

Comment: A commenter stated that the process should allow individuals to file petitions anonymously for safety reasons.

Response: The Committee understands that some individuals may be unable or unwilling to come forward and report information to the Committee about potential breaches of the USMCA for safety reasons. Accordingly, as noted above, the Committee has amended the procedures described in Sections C.5.c and C.7.c of the final procedures to allow petitions to be filed anonymously. The Committee takes individuals' safety seriously and will strive to protect all petitioners' private information to the maximum extent possible. Additionally, as noted in further detail in the Guideline section on Confidentiality, the Committee recommends that each person filing a petition that wishes to keep their identity protected furnish an explanation as to the need for exemption from public inspection.

(c) Review of Petitions.

Comment: Two commenters sought to have the Guidelines specify that the Committee's review would be limited to the claim alleged in the petition.

Response: The Implementation Act tasks the Committee with monitoring conditions in Mexico and Canada with respect to the implementation of USMCA labor obligations, and the Committee may request enforcement action based on such monitoring. Nothing in the Implementation Act precludes the Committee from considering potential claims that it becomes aware of by any means. This includes claims that are not formally alleged in a petition, but are suggested by facts alleged in a petition or uncovered by the Committee while considering a petition. Further, petitions may be presented by individuals who may have difficulty formulating a precise legal claim. Precluding consideration of claims not raised in the petition could frustrate the Committee's ability to pursue matters raised by such petitioners.

Comment: Certain commenters sought to require that Committee reviews of RRM petitions be limited to allegations of denials of the right of free association and collective bargaining, and that Committee reviews of Labor Chapter petitions be limited to allegations of breaches of the Labor Chapter.

Response: The matters that can be pursued through USMCA enforcement mechanisms are specified in the USMCA. As noted above, section 716 of the Implementation Act sets forth relevant provisions with respect to Committee reviews. The Committee will carefully review all information raised in a petition and proceed as appropriate.

Comment: Some commenters requested language in the Guidelines precluding the Committee from reviewing petitions on matters that already have been resolved by mediation, arbitration or settlement, or through a domestic legal process, in order to avoid relitigating the same dispute and extraterritorial “forum shopping”. Another commenter argued that subsections D.7.c and D.7.d of the interim procedures, which identified as a consideration in reviewing a petition under the Labor Chapter whether relief had been sought under the other Party’s domestic laws and whether the matter has been addressed by, or is pending before, any international body, should be deleted.

Response: The United States is a party in RRM proceedings and dispute settlement proceedings involving the Labor Chapter of the USMCA. The interests of the United States would not have been represented in any prior adjudication, arbitration, settlement or mediation to which the United States was not a party. Similarly, the purpose of the RRM proceedings and dispute settlement proceedings under the Labor Chapter is to provide a forum to determine whether a violation of the agreement has occurred, and the standard for such a determination will thus differ from the standard in other legal processes. If the Committee considers that a denial of rights alleged in a petition has

been partially or fully resolved in another proceeding, the Committee may take that into account in its own review of the evidence supporting the alleged denial of rights.

The Committee agrees with the comment that requested the deletion of subsections D.7.c and d of the interim procedures and, as noted above, the entirety of section D.7 of the interim procedures has been removed from the final procedures. As the commenter noted, inclusion of those considerations is not determinative of the decision to review or take action on a petition.

Comment: One commenter argued that in the introduction to section D.8 of the interim procedures (section D.7 of the final procedures), “may” should be changed to “shall,” such that consultation with the listing entities would be required.

Response: The Implementation Act does not require consultation with all of the listed individuals and entities. In many cases, some of the entities and individuals listed would not have relevant information. Requiring consultation with all of them could delay the Committee’s consideration of petitions. In some instances, consultation with particular entities could create a risk of witness intimidation or evidence tampering. The Committee will make case-by-case determinations about the individuals or entities to consult when assessing a petition. Therefore, the final procedures do not incorporate the requested change.

Comment: One commenter sought to have the Guidelines establish timelines for review of a petition.

Response: Applicable timelines already have been established in section 716 of the Implementation Act and noted in the Guidelines.

Comment: One commenter sought a requirement for the Committee to provide the owner of a facility with updates on the status of the Committee’s review of an RRM petition concerning the facility, and to inform the owner of any determination by the

Committee that there is not sufficient credible evidence of a denial of rights enabling the good-faith invocation of enforcement mechanisms.

Response: The transparency obligations and procedures applicable to the Committee's review of petitions are as specified in section 716 of the Implementation Act and detailed in the Guidelines. Further, in some circumstances, notification to a facility owner concerning the progress of Committee review could create a risk of evidence tampering, witness tampering, or retaliation. Such risks may exist even in situations where a determination has been made that there is not sufficient, credible evidence of a denial of rights to enable the good-faith invocation of enforcement mechanisms. Consequently, the Guidelines do not include this requested change.

Comment: One commenter suggested that the Guidelines should include details regarding what happens following notification to the U.S. Trade Representative of an affirmative Committee determination.

Response: These Guidelines concern the Committee's handling of petitions. How the U.S. Trade Representative will proceed following an affirmative Committee determination is not an appropriate subject for Committee Guidelines. section 716 of the Implementation Act provides information on how the U.S. Trade Representative will proceed following an affirmative Committee determination. In the case of an affirmative determination pursuant to an RRM petition, "the Trade Representative shall submit a request for review...with respect to the covered facility..." In the case of an affirmative determination pursuant to other petitions, the U.S. Trade Representative shall, within 60 days, initiate appropriate enforcement action or notify the appropriate congressional committees as to the reasons for not initiating action.

Comment: Two commenters sought to require that the Committee provide petitioners updates on the Committee's review.

Response: The Committee agrees that petitioners have a strong interest in the progress of the Committee's review, and has amended Section D.8 to require timely response to a petitioner following a review and specific notice of RRM determinations.

(d) Confidentiality.

Comment: One commenter sought a requirement that petitioners and other persons not make a petition and accompanying information public until an RRM Panel has made its determination to avoid impacting the reputation of a facility at issue. Another commenter proposed that public disclosure of a petition occur only if a "governmental entity" finds a violation of the USMCA. Relatedly, some commenters proposed that the Committee's process be confidential, while another commenter suggested that the Committee's final determination regarding a petition should be made public.

Response: The transparency obligations and procedures applicable to the Committee's review of petitions are as specified in section 716 of the Implementation Act. The Implementation Act does not impose any restrictions on petitioners or other persons from disseminating information. To the extent that commenters sought additional restrictions on the dissemination of information by the Committee or Member agencies, the Committee does not consider such changes to be appropriate because such restrictions could impede the investigation of matters raised to the Committee.

(e) Other Comments.

Comment: One commenter proposed that the Committee publish a Code of Ethics for RRM panel members, with certain specified features.

Response: Both RRM panelists and panelists in labor disputes under Chapter 31 are subject to the Code of Conduct adopted in Decision 1 of the USMCA Free Trade Commission, available at: <https://ustr.gov/trade-agreements/free-trade->

agreements/united-states-mexico-canada-agreement/free-trade-commission-decisions/annex-iii.

Comment: Several commenters suggested that the guidelines should seek to clarify or limit the authorities of RRM panels and USMCA Chapter 31 panels considering labor matters.

Response: The authorities of RRM and Chapter 31 panels are specified in the USMCA, and procedures for these proceedings are specified in the Rules of Procedure for Chapter 31 (Dispute Settlement), contained in Annex III to Decision 1 of the USMCA Free Trade Commission, available at: <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/free-trade-commission-decisions/annex-iii>. The Committee's Procedural Guidelines cannot alter the authorities and procedures of panels specified in USMCA Chapter 31 and the Rules of Procedure for Chapter 31.

ANNEX

USMCA Procedural Guidelines

Summary

The Interagency Labor Committee for Monitoring and Enforcement (Committee) announces the procedures for the receipt and review of petitions and information pursuant to the United States-Mexico-Canada Agreement (USMCA) Chapter 23 (Labor Chapter) and Annex 31-A (Facility-Specific Rapid Response Labor Mechanism, hereafter Rapid Response Mechanism), under section 716 of the USMCA Implementation Act (Pub. L. 116-113) (Implementation Act). Please direct petitions and information discussed below to the U.S. Department of Labor, Bureau of International Labor Affairs (ILAB), Office of Trade and Labor Affairs (OTLA), for Committee consideration.

Email is the preferred means for sending petitions and accompanying information to the Committee. Petitions and accompanying information may be emailed to the OTLA

for Committee consideration at: USMCA-petitions@dol.gov. Petitions and accompanying information provided by hand delivery or mail for Committee consideration may be sent to: Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-5315, Washington DC 20210. A document must be sent to the email address or street address identified in this paragraph to be treated as a petition or as information accompanying a petition. However, the Committee may evaluate and act upon allegations and information that it receives by other means, including through the Department of Labor-monitored web-based hotline at <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca/hotline>. For any questions, contact OTLA by telephone at 202-693-4802.

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the Federal Information Relay Service at 1-877-889-5627.

Section A. Definitions

Another Party or other Party means a country other than the United States that is a Party to the USMCA.

Covered facility means a facility in the territory of Mexico that is in a Priority Sector and (i) produces a good, or supplies a service, traded between the Parties, or (ii) produces a good, or supplies a service, that competes in the territory of a Party with a good or a service of the United States.

Days means calendar days, unless otherwise specified.

Denial of rights has the meaning specified, with respect to Mexico, in USMCA Annex 31-A.2, including footnote 2.

Enterprise means an entity constituted or organized under applicable law, whether or not for profit, and whether privately owned or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization.

Labor Chapter means Chapter 23, including Annex 23-A, of the USMCA.

Labor obligations means obligations under the Labor Chapter, including Annex 23-A.

Labor organization includes any organization of any kind, including local, provincial, territorial, state, national, and international organizations or federations, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

Party means a Party to the USMCA.

Person means a natural person or an enterprise.³

Petition means a written statement to the Committee asserting that there is a denial of rights at a covered facility (Rapid Response Petition) or any other failure to comply with the obligations of another Party under the Labor Chapter of the USMCA (Labor Chapter Petition).⁴

Petitioner means any person that files a petition.

Priority sector means a sector that produces manufactured goods, including but not limited to, aerospace products and components, autos and auto parts, cosmetic products, industrial baked goods, steel and aluminum, glass, pottery, plastic, forgings, and cement; supplies services; or involves mining.

Section B. The Committee

1. In accordance with section 711 of the Implementation Act, the Committee, co-chaired by the U.S. Trade Representative and the Secretary of Labor,⁵ has been established to coordinate United States efforts with respect to each Party:

³ For greater certainty, “person” includes labor organizations and non-governmental organizations.

⁴ “Petitions with accompanying information” for purposes of this document are similar to “submissions” as that term is used in the OTLA Procedural Guidelines regarding other free trade agreements. *See* Bureau of International Affairs; Notice of Reassignment of Functions of Office of Trade Agreement Implementation to Office of Trade and Labor Affairs; Notice of Procedural Guidelines, 71 FR 76691 (December 14, 2006).

⁵ The day-to-day operations of the Committee will be carried out by the Assistant U.S. Trade Representative for Labor Affairs, Office of the United States Trade Representative (USTR), and the Deputy Undersecretary for International Affairs at the U.S. Department of Labor.

- a. to monitor the implementation and maintenance of the labor obligations;
 - b. to monitor the implementation and maintenance of Mexico's labor reform; and
 - c. to request enforcement actions with respect to a Party that is not in compliance with such labor obligations.
2. The Committee will review petitions and accompanying information regarding another Party's labor obligations arising under the USMCA, as set out in Section D.
3. In connection with any of its activities, the Committee may evaluate and act upon any allegations and information received from the public, including by means of the Department of Labor monitored web-based hotline at <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca/hotline> referred to in section 717 of the Implementation Act.
4. The ILAB is the designated contact point, in regular consultation and coordination with the USTR Office of Labor Affairs, pursuant to Article 23.15 of the Labor Chapter.
5. Any person may provide information for the Committee to the OTLA. The information should be in written format, when practicable. Written information may be provided by electronic means, hand delivery, or mail, including courier. Clear identification of the person sending information will facilitate follow-up communication, and is encouraged where feasible.

Section C. Petitions and Accompanying Information

1. Any person of a Party may, through the OTLA, file a Rapid Response Petition or Labor Chapter Petition with the Committee.
2. A petition may be accompanied by information that supports the petition's allegations. Upon receipt of a petition with accompanying information, the Committee will deem this a written submission for purposes of USMCA Article 23 and follow the relevant review procedures identified in Section D.

3. To be treated as a petition or as information accompanying a petition, a document must be sent to USMCA-petitions@dol.gov or to the Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-5315, Washington DC 20210.
4. A petition must be in writing, in the English or Spanish language. To assist the Committee in making its determination in a timely manner, the Committee prefers that petitioners send petitions and accompanying information to OTLA by email and in searchable formats, but will accept such documents by hand delivery or mail, including by courier. The Committee encourages any petitioner that does not submit a petition or information electronically to provide electronic versions of all documents.

Rapid Response Petitions

5. Any Rapid Response Petition must:
 - a. identify the covered facility to which the petition pertains;
 - b. provide a description, including facts with sufficient specificity, of the matter alleged to constitute a denial of rights; and
 - c. either:
 - i. identify the person filing the petition, as well as either (A) the person's e-mail address or (B) the person's mailing address and telephone number; or
 - ii. if the filer chooses not to disclose their identity, designate an email address or telephone number at which the filer can receive and respond to communications from the Committee and its members. Communications sent to the designated email address or telephone number shall be deemed communicated to the filer, regardless of whether the filer is the owner of the designated email account or telephone number.
6. The Committee recommends that, as relevant and to the extent possible, each Rapid Response Petition be accompanied by information that corroborates the petitioner's

factual allegations, such as written or recorded witness statements or documentary evidence, and in addition, that the petition address:

- a. whether the facility to which the petition pertains is a covered facility; and
- b. the laws, and specific provisions thereof, of Mexico with which there is alleged non-compliance.

Labor Chapter Petitions

7. Any Labor Chapter Petition must:

- a. identify the other Party alleged to be out of compliance with an obligation under the Labor Chapter;
- b. provide reasons, including facts with sufficient specificity, supporting the petitioner's allegation that the other Party is out of compliance; and
- c. either:
 - i. identify the person filing the petition, as well as either (A) the person's e-mail address or (B) the person's mailing address and telephone number; or
 - ii. if the filer chooses not to disclose their identity, designate an email address or telephone number at which the filer can receive and respond to communications from the Committee and its members. Communications sent to the designated email address or telephone number shall be deemed communicated to the filer, regardless of whether the filer is the owner of the designated email account or telephone number.

8. The Committee recommends that, as relevant and to the extent possible, each Labor Chapter Petition be accompanied by information that supports the petitioner's factual allegations, such as written or recorded witness statements or documentary evidence, and in addition, that the petition address:

- a. the particular obligation in the Labor Chapter with which the petitioner considers there is non-compliance;

- b. whether there has been harm to the petitioner or other persons, and, if so, to what extent;
- c. for claims alleging a failure by a Party to effectively enforce labor laws under Article 23.5, whether there has been a sustained or recurring course of action or inaction of non-enforcement of labor law by another Party; and
- d. whether the matter referenced in the petition occurred in a manner affecting trade or investment.

Section D. Review of a Petition

Rapid Response Petitions

1. When the Committee receives a Rapid Response Petition with accompanying information, the Committee will review the petition and any accompanying information within 30 days of their receipt by the OTLA and determine whether there is sufficient, credible evidence of a denial of rights at the covered facility enabling the good-faith invocation of enforcement mechanisms.
2. If the Committee decides that there is sufficient, credible evidence of a denial of rights at the covered facility enabling the good faith invocation of enforcement mechanisms, the Committee will inform the U.S. Trade Representative for purposes of submitting a request for review in accordance with Article 31–A.4 of the USMCA.
3. If the Committee determines that there is not sufficient, credible evidence of a denial of rights at the covered facility enabling the good faith invocation of enforcement mechanisms, the Committee will certify that determination to the United States Senate Committee on Finance, the United States House of Representatives Committee on Ways & Means, and the petitioner.

Labor Chapter Petitions

4. When the Committee receives a Labor Chapter Petition with accompanying information, the Committee will review the petition and any accompanying information not later than 20 days after they were received by the OTLA.
5. If, after the review provided for in paragraph 4 of this section, the Committee determines that further review is warranted, the Committee will conduct a further review focused exclusively on determining, not later than 60 days after the date of receipt, whether there is sufficient, credible evidence that the other Party is not in compliance with its labor obligations, for purposes of initiating enforcement action under Chapter 23 or Chapter 31 of the USMCA.
6. If the Committee determines that there is sufficient, credible evidence that the other Party is not in compliance with its obligations under the Labor Chapter for purposes of initiating enforcement action under Chapter 23 or Chapter 31 of the USMCA, the Committee will immediately so inform the U.S. Trade Representative.

Engagement

7. In making any determination identified in this section, the Committee may, among other things, consult with, and consider views expressed by, any individual or entity, including:
 - a. officials of the United States government;
 - b. officials of any State or local government;
 - c. officials of any foreign government;
 - d. the designated contact point of the relevant Party;
 - e. labor organizations;
 - f. employer organizations;
 - g. non-government representatives;
 - h. advisory committees;
 - i. the petitioner; and

- j. the employer, or the owner or operator of a facility.
8. The Committee will provide a timely response to the petitioner following a review conducted in accordance with section D, including by, in the case of a Rapid Response Petition:
- a. informing the petitioner if the petition results in the U.S. Trade Representative submitting a request for review; and
 - b. certifying to the petitioner a negative determination concerning the petition in accordance with section 716(b)(2) of the Implementation Act.

Section E. Confidentiality

1. Information provided by a person or another Party to the Committee shall be treated as confidential and exempt from public inspection if the information meets the requirements of 5 U.S.C. 552(b) of the Freedom of Information Act or if otherwise permitted by law. The Committee will carefully review all documents submitted to it determine whether they can be treated as exempt from public inspection and make every effort to protect confidential information to the fullest extent possible under the law.
2. The OTLA and the Committee are sensitive to the confidentiality needs of a person and will make every effort to protect a natural person's identity pursuant to the law.

Joshua Kagan,

Assistant U.S. Trade Representative for Labor

Office of the United States Trade Representative.

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